

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:07CR188
)	
vs.)	ORDER
)	
STEPHEN KIRSCHBAUM,)	
)	
Defendant.)	

This matter is before the court on the Petition for Action on Conditions of Pretrial Release (Filing No. 32).

On June 18, 2007, the defendant, Stephen Kirschbaum (Kirschbaum), was ordered released upon conditions pending trial (Filing No. 21). Kirschbaum was to reside at Omaha, Nebraska, and comply with various conditions of pretrial release. On August 10, 2007, Pretrial Services Officer Lisa D. Caviness (Officer Caviness) submitted a Petition for Action on Conditions of Pretrial Release alleging Kirschbaum had violated the conditions of his release by using a controlled substance, failing to report for drug testing, and failing to report to Pretrial Services as directed. A warrant for Kirschbaum's arrest was ordered.

Kirschbaum appeared before the undersigned magistrate judge on September 11, 2007. Kirschbaum was represented by Michael T. Levy and the United States was represented by Assistant U.S. Attorney Kimberly C. Bunjer. After being advised of the nature of the allegations, his rights, and the consequences if the allegations were found to be true, Kirschbaum admitted the allegations of the petition.

The court finds allegations of the Petition are generally true, and the defendant has violated the conditions of his release.

After providing both parties an opportunity for allocution as to disposition and considering the report of Pretrial Services, I find the Order Setting Conditions of Release should be revoked. Kirschbaum has demonstrated he cannot comply with the conditions of release and cooperate with Pretrial Services. There is no condition or combination of conditions that would reasonably assure Kirschbaum's presence for further proceedings or the safety of the community in the event he were released upon conditions.

IT IS ORDERED:

1. The Petition For Action on Conditions of Pretrial Release (Filing No. 32) is granted.
2. The June 18, 2007, Order Setting Conditions of Release of Stephen Kirschbaum (Filing No. 21) is hereby revoked.
3. The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 11th day of September, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge